

Notice of Allowability

Application No.

10/530,171

Examiner

LYNN BRISTOL

Applicant(s)

HIRAKAWA ET AL.

Art Unit

1643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Response of 11/18/09.
2. ☒ The allowed claim(s) is/are 1.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 8/3/09
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 2/9/10
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/Lynn Bristol/
Primary Examiner

DETAILED ACTION

1. Claims 1, 12-35 and 42 are all the pending claims for this application.
2. Claim 1 was amended in the Response of 11/18/09.
3. Claims 12-35 and 42 are cancelled as set forth below.
4. Claim 1 is the pending claim under examination.

Information Disclosure Statement

5. The IDS of 8/3/09 has been considered and entered. The initialed and signed 1449 form is attached.

Withdrawal of Objections

Specification

6. The objection to the title of the invention as being non-descriptive is withdrawn.
The title has been amended in the Response of 11/18/09 as follows "nmMHCA polypeptides"

Withdrawal of Rejections

Claim Rejections - 35 USC § 112, first paragraph

Written Description

7. The rejection of Claim 1 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement is withdrawn.

Applicants have amended Claim 1 to recite the three antigenic and isolated peptides for nmMHCA disclosed in the specification on pp. 23-24.

Claim Rejections - 35 USC § 103

8. The rejection of Claim 1 under 35 U.S.C. 103(a) as being unpatentable over Toothaker et al. (Blood 78(7):1826- 1833 (1991)) and Kelley et al. (Nat. Genet. 26:106-108 (2000)) is withdrawn.

Applicants have amended Claim 1 to recite the three antigenic and isolated peptides for nmMHCA disclosed in the specification on pp. 23-24. Neither of Toothaker and Kelley alone or in combination teaches the peptides.

EXAMINER'S AMENDMENT

9. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. John Kilyk on 2/9/10. The application has been amended as follows:

Claim 1 (Currently Amended) An isolated ~~polypeptide~~ peptide consisting of the amino acid sequence of SEQ ID NO: 20, 21, or 22.

Claim 12-35 and 42. Cancelled.

Examiner's Statement of Reasons for Allowance

10. The following is an examiner's statement of reasons for allowance: the isolated peptides of SEQ ID NOS: 20, 21 and 22 are novel and non-obvious and are shown to be antigenic for raising antibodies in vivo.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

11. Claim 1 is allowed.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynn Bristol whose telephone number is 571-272-6883. The examiner can normally be reached on 8:00-4:00, Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms can be reached on 571-272-0832. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lynn A. Bristol/
Primary Examiner, Art Unit 1643